

CA20NCH 91C01

Ontario. Consolidated Hearings Act, 1981.

CH-91-01(F)

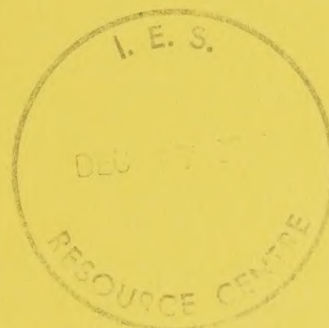
INNISFIL LANDFILL CORPORATION INTERVENOR FUNDING
PROGRAM. IN THE MATTER OF AN APPLICATION BY PRICE
WATERHOUSE LIMITED... 1991.

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Ontario



The Joint Board THE CONSOLIDATED HEARINGS ACT, 1981

CH-91-01(F)

INNISFIL LANDFILL CORPORATION INTERVENOR FUNDING PROGRAM

IN THE MATTER OF an application by Price Waterhouse Limited, the Receiver and Manager of the assets of the Innisfil Landfill Corporation, for a Certificate of Approval to continue to provide a facility for the purpose of receiving and disposing of waste from certain named municipalities for a period of five years, and for constructing, operating, maintaining, and rehabilitating a sanitary landfill site located on Part Lots 8 and 9, Concession VI, in the Town of Innisfil.

BEFORE:	R.A. Pharand, Q.C.	-	Chairman
	A.B. Ball	-	Member

Decision and Reasons for Decision

DATED at TORONTO this 29TH day of NOVEMBER, 1991.

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APPEARANCES:

H. Dahme	-	for the Price Waterhouse Limited
W. Yenson		
D. Thomson	-	for the Corporation of the Town of Innisfil
K.C. Hill	-	for Lake Simcoe Region Conservation Authority
J. Castrilli	-	Ratepayers' Coalition
R.W. Gooch	-	on his own behalf

REASONS FOR DECISION

On October 7, 1991, this Panel ordered as followed:

1. Price Waterhouse Limited, Receiver/Manager for the Innisfil Landfill Corporation, is named the Funding Proponent;
2. Mr. Robert W. Gooch, the Coalition of Ratepayers' Association, the Corporation of the Town of Innisfil, and the Lake Simcoe Region Conservation Authority are eligible for intervenor funding; and
3. In order to facilitate the final funding allocation, the intervenors shall submit to the Funding Panel in writing their Financial Plan Summary, before October 17, 1991 in accordance with the attached Financial Plan Summary detailing hours, rates, fees, disbursements and G.S.T.

On October 17, 1991, the intervenors filed their Financial Plan Summaries (see Appendix II for summary of Financial Plans).

On consent, the Funding Proponent agreed to funding Mr. Gooch in the amount of \$599.20 (this amount includes seven per cent G.S.T.), and it is so ordered.

This Panel must now decide what amount of intervenor funding is to be awarded to the Corporation of the Town of Innisfil (the Town), the Coalition of Ratepayers' Association

(the Coalition), the Lake Simcoe Region Conservation Authority (the Conservation Authority) referred to hereafter as the Intervenors.

The Intervenors represent a clearly ascertainable interest and should be represented at the hearing. The issue is whether or not each Intervenor is entitled to separate funding for legal representation at the hearing.

The Town is the major Intervenor and it has a duty to represent all of its citizens, including the members of the Coalition. In addition, the Town is a legislative partner in the Conservation Authority and contributes financially to it.

There does not appear to be a conflict between the interests of the Town, the Coalition and the Conservation Authority.

Since there is no difference in the interest of the Intervenors and since counsel for the Intervenors are experts in environmental law, there is no reason why the related interests of the Intervenors could not be brought into an umbrella group and be represented by one counsel.

Although the Intervenors have attempted to bring their interests into an umbrella group, this attempt has not been successful and therefore it will be assumed, for funding purposes, that the issues relevant to all of the intervenors, except for Mr. Gooch, can be dealt with by counsel acting on behalf of the Town.

The Town is therefore awarded intervenor funding for legal fees and disbursements in accordance with its application for legal fees and disbursements as set out in its Financial Plan Summary filed on October 17, 1991.

With regard to the Coalition, it shall be allowed 100 hours for intermediate counsel, at \$75.38 per hour plus seven per cent G.S.T. for a total of \$8,065.66 and the Conservation Authority shall be allowed 100 hours at the rate of \$83.75 per hour plus seven per cent G.S.T. for a total of \$8,626.27.

The award for legal fees to the Coalition and to the Conservation Authority will allow counsel to be reimbursed for time spent in this matter since September 3, 1991 and additional time to be spent briefing counsel for the Town.

It appears at this time that counsel are unable to determine exactly what all of the issues are that will be dealt with at the hearing. It further appears that the Intervenor may be duplicating areas of study to be dealt with by experts. In the circumstances this Panel has decided that there will be no intervenor funding award to the Coalition and the Conservation Authority for experts and disbursements in relation thereto. When the issue of duplication has been resolved and the issues of concern of the Coalition and the Conservation Authority have been ascertained, then an application for supplementary funding may be made pursuant to Section 12 of the *Intervenor Funding Project Act, 1988*.

The Town and the Proponent both have a vested interest in the landfill site and accordingly, the Town will be awarded intervenor funding for fifty per cent of its application for experts and disbursements.

Since the Proponent acts on behalf of the Receiver, an application must be brought in the Ontario Court of Justice for approval to expend funds and accordingly, it is ordered that the Proponent make this application forthwith for the sum of \$316,376.44.

On or before December 31, 1991, the amount of \$316,376.44 shall be paid into an interest bearing trust account in the name of counsel for the Proponent and counsel for the Town. Interest shall accrue to the benefit of the Proponent and approved invoices shall be paid thirty days net. If invoices are not paid in time, they shall bear interest at the rate of interest of the trust account on the default date.

DECISION

1. Mr. Gooch is awarded intervenor funding in the amount \$599.20 (see detailed Schedule A1 attached);
2. The Corporation of the Town of Innisfil is awarded Intervenor Funding as follows:

Legal fees and disbursements	\$189,925.00
Experts	115,424.67
Disbursements	5,350.00
Less G.S.T. Rebate Factor	<u>(11,614.36)</u>

TOTAL **\$299,085.31**
(see detailed Schedule A-2 attached)

3. The Lake Simcoe Region Conservation Authority is awarded intervenor funding in the amount of \$8,626.27 (see detailed Schedule A-3 attached) for legal fees.
4. The Coalition of Ratepayers' Association is awarded intervenor funding in the amount of \$8,065.66 (see detailed Schedule A-4 attached) for legal fees.
5. The Proponent shall forthwith apply to the Ontario Court of Justice and seek authorization to expend the sum of \$316,376.44 for intervenor funding.
6. The sum of \$316,376.44 shall be held in an interest bearing trust account in the name of counsel for the Proponent and counsel for the Town, who shall both be members of the Law Society of Upper Canada. Interest shall accrue to the credit of the Proponent. Invoices shall be paid in thirty days net after approval. If invoices are not paid on time, interest shall be paid to the Intervenor at the same rate credited to the balance of the trust account on the date the invoice becomes due. Although interest is to be credited to the Proponent, it shall accrue until all of the approved intervenor funding invoices have been paid in full. The balance of accrued interest less interest paid on invoices if any, shall then be paid to the Proponent.
7. Each intervenor named in Appendix I is allocated the amounts of funds specified in the applicable Schedules A1 - A4. These Schedules, along with Appendix I are attached to and form part of this Decision.
8. The person or firm responsible for the accounting of the funds awarded is named on the applicable Schedule.
9. Claims for funds pursuant to this intervenor funding program shall be made in accordance with the Environmental Assessment Board's "General Principles for the Submission of Claims".
10. Claims for funds are to be submitted monthly to the Finance and Capital Management Branch, Ministry of the Environment using the "Request for Funds Form" provided.

DATED at TORONTO this 29TH day of NOVEMBER, 1991.

"R.A. Pharand, Q.C."

R.A. Pharand, Q.C., Chairman

"A.B. Ball"

A.B. Ball, Member

Schedule A-1

LEGAL -----	HOURS -----	RATE/HOURS -----	LEGAL FEES -----	GST @ 7% -----	TOTAL -----
		\$	\$	\$	
Senior counsel		83.75	0.00	0.00	0.00
Intermediate counsel		75.38	0.00	0.00	0.00
Junior counsel		67.00	0.00	0.00	0.00
Law clerk/student		23.00	0.00	0.00	0.00
Disbursements			0.00	0.00	0.00
			-----	-----	-----
Total (legal)			0.00	0.00	0.00
			-----	-----	-----

EXPERTS						TOTAL
AREA OF STUDY	HOURS	RATE/HOUR	EXPERT FEES	DISBURSEMENTS	GST (7%) Fee+Disb	PER EXPERT
1. Land Use	3.5	\$ 100.00	\$ 350.00	\$ 0.00	\$ 24.50	\$ 374.50
Total (Experts)			350.00	0.00	24.50	374.50

DISBURSEMENTS	DISB	GST (7%)	TOTAL
Typing	0.00	0.00	0.00
Photocopying	60.00	4.20	64.20
Printing	0.00	0.00	0.00
Transcripts	150.00	10.50	160.50
Total(Disbursements)	210.00	14.70	224.70

SUB-TOTAL ALLOCATION:	39.20	599.20

Other sources of funding:	0.00	0.00
G.S.T. Rebate	0.00	0.00

TOTAL ALLOCATION:	39.20	599.20

Phone: (Home) 491-3969
(Bus.) 499-9001
Fax: 498-9200

INTERVENOR: Town of Innisfil

FINANCIAL PLAN SUMMARY

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Schedule A-2

LEGAL	HOURS	RATE/HOURS	LEGAL FEES	GST @ 7%	TOTAL
-----	-----	-----	-----	-----	-----
		\$	\$	\$	
Senior counsel	1200	83.75	100,500.00	7,035.00	107,535.00
Intermediate counsel		75.38	0.00	0.00	0.00
Junior counsel	1000	67.00	67,000.00	4,690.00	71,690.00
Law clerk/student		23.00	0.00	0.00	0.00
Disbursements			10,000.00	700.00	10,700.00
Total(legal)			177,500.00	12,425.00	189,925.00
			=====	=====	=====

EXPERTS					GST (7%)	TOTAL
-----	-----	-----	-----	-----	-----	-----
AREA OF STUDY	HOURS	RATE/HOUR	EXPERT FEES	DISBURSEMENTS	Fee+Disb	PER EXPERT
-----	-----	-----	-----	-----	-----	-----
		\$	\$	\$	\$	\$
1. Principle Engineer	263.0	95.00	24,985.00	1,500.00	1,853.95	28,338.95
2. Hydrogeologist	40.5	52.10	2,110.05		147.70	2,257.75
3. Technician	32.5	46.75	1,519.38		106.36	1,625.73
4. Contaminant Migration	162.0	110.00	17,820.00	250.00	1,264.90	19,334.90
5. Landfill Engineer (1)	110.0	120.00	13,200.00	1,500.00	1,029.00	15,729.00
6. Landfill Engineer (2)	30.0	180.00	5,400.00		378.00	5,778.00
7. Support Staff	30.0	46.47	1,394.10		97.59	1,491.69
8. Leachate Treatment (1)	76.3	100.00	7,625.00	1,000.00	603.75	9,228.75
9. Leachate Treatment (2)	15.0	150.00	2,250.00		157.50	2,407.50
10. Ecology	164.0	105.00	17,220.00	1,500.00	1,310.40	20,030.40
11. Land Use Planning	70.0	110.00	7,700.00	900.00	602.00	9,202.00
Total (Experts)			101,223.53	6,650.00	7,551.15	115,424.67
			=====	=====	=====	=====

DISBURSEMENTS	DISB	GST (7%)	TOTAL
-----	-----	-----	-----
Typing	0.00	0.00	0.00
Photocopying	0.00	0.00	0.00
Printing	0.00	0.00	0.00
Transcripts	5,000.00	350.00	5,350.00
Total(Disbursements)	5,000.00	350.00	5,350.00
	=====	=====	=====

SUB-TOTAL ALLOCATION:	20,326.15	310,699.67
Other sources of funding:	0.00	0.00
G.S.T. Rebate Factor .0.5714 (R-#121947188)	11,614.36	11,614.36
TOTAL ALLOCATION:	8,711.79	299,085.31
	=====	=====

PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Doug Thomson
McCarthy Tetrault
Suite 4700, Toronto Dominion Bank Tower
Toronto, Ontario
M5K 1E6

Phone: 362-1812
Fax: 868-1891

Note: Experts 1,2,3 all relate to hydrogeology; and
Experts 5,6,7 all relate to landfill development and operation

INTERVENOR: Lake Simcoe Conser. Auth.

FINANCIAL PLAN SUMMARY

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Schedule A-3

LEGAL	HOURS	RATE/HOURS	LEGAL FEES	GST @ 7%	TOTAL
-----	-----	-----	-----	-----	-----
		\$	\$	\$	
Senior counsel	100	83.75	8,375.00	586.25	8,961.25
Intermediate counsel		75.38	0.00	0.00	0.00
Junior counsel		67.00	0.00	0.00	0.00
Law clerk/student		23.00	0.00	0.00	0.00
Disbursements				0.00	0.00
Total (legal)			8,375.00	586.25	8,961.25
			=====	=====	=====

EXPERTS					TOTAL
-----					-----
AREA OF STUDY	HOURS	RATE/HOUR	EXPERT FEES	DISBURSEMENTS	PER EXPERT
-----	-----	-----	-----	-----	-----
		\$	\$	\$	\$

Total (Experts)

DISBURSEMENTS	DISB	GST (7%)	TOTAL
-----	-----	-----	-----
Typing			
Photocopying			
Printing			
Transcripts			

Total (Disbursements)

SUB-TOTAL ALLOCATION:	586.25	8,961.25
Other sources of funding:		0.00
G.S.T. Rebate Factor 0.5714 (R-#119003309)	334.98	334.98
TOTAL ALLOCATION:	251.27	8,626.27
	=====	=====

PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Kenneth Hill
McChesney, Robers, Hill & Callaghan
Box 324, 69 Main Street South
Newmarket, Ontario L3Y 4X7

Phone: 895-1007
Fax: 895-4064

INTERVENOR: Ratepayers' Coalition

FINANCIAL PLAN SUMMARY

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Schedule A-4

LEGAL	HOURS	RATE/HOURS	LEGAL FEES	GST @ 7%	TOTAL
-----	-----	-----	-----	-----	-----
		\$	\$	\$	
Senior counsel	0	83.75	0.00	0.00	0.00
Intermediate counsel	100	75.38	7,538.00	527.66	8,065.66
Junior counsel		67.00	0.00	0.00	0.00
Law clerk/student		23.00	0.00	0.00	0.00
Disbursements				0.00	0.00
Total (legal)			7,538.00	527.66	8,065.66
			=====	=====	=====

EXPERTS					TOTAL
-----	-----	-----	-----	-----	-----
AREA OF STUDY	HOURS	RATE/HOUR	EXPERT FEES	DISBURSEMENTS	PER EXPERT
-----	-----	-----	-----	-----	-----
		\$	\$	\$	\$

Total (Experts) -----
=====

DISBURSEMENTS	DISB	GST (7%)	TOTAL
-----	-----	-----	-----
Typing			0.00
Photocopying			0.00
Printing			0.00
Transcripts			0.00
Total (Disbursements)	0.00	0.00	0.00
	=====	=====	=====

SUB-TOTAL ALLOCATION:	527.66	8,065.66
-----	-----	-----
Other sources of funding:	0.00	0.00
G.S.T. Rebate	0.00	0.00
TOTAL ALLOCATION:	527.66	8,065.66
-----	=====	=====

PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Joseph Castrilli
Morris/Rose/Ledgett
Canada Trust Tower, BCE Place
161 Bay Street, Suite 2600
Toronto, Ontario M5J 2S1

Phone: 863-1600
Fax: 863-9500

INNISFIL LANDFILL HEARING - SUMMARY OF FUNDING ALLOCATION

INTERVENOR	LEGAL FEES & DISBURSEMENTS	EXPERT FEES & DISBURSEMENTS	INTERVENOR DISBURSEMENTS	FUNDS FROM OTHER SOURCES	GST REBATE	TOTAL
Robert W. Gooch	0.00	374.50	224.70	0.00	0.00	599.20
The Corporation of the Town of Innisfil	189,925.00	115,424.67	5,350.00	0.00	11,614.36	299,085.31
Lake Simcoe Region Conservation Authority	8,961.25	0.00	0.00	0.00	334.98	8,626.27
Ratepayers' Coalition	8,065.66	0.00	0.00	0.00	0.00	8,065.66
TOTAL:	206,951.91	115,799.17	5,574.70	0.00	11,949.34	316,376.44

Note: All figures include the GST (7%).

INNISFIL LANDFILL HEARING - SUMMARY OF FINAL FUNDING APPLICATIONS (OCTOBER 17, 1991)

INTERVENOR	LEGAL FEES & DISBURSEMENTS	EXPERT FEES & DISBURSEMENTS	INTERVENOR DISBURSEMENTS	FUNDS FROM OTHER SOURCES	GST REBATE	TOTAL
Robert W. Gooch	0.00	374.50	224.70	0.00	0.00	599.20
The Corporation of the Town of Innisfil	189,925.00	230,849.35	10,700.00	0.00	16,129.08	415,345.27
Lake Simcoe Region Conservation Authority	44,806.23	47,604.32	1,605.00	0.00	3,514.42	90,501.13
Ratepayers' Coalition	106,465.43	110,355.79	10,700.00	0.00	0.00	227,521.22
TOTAL:	341,196.66	389,183.96	23,229.70	0.00	19,643.50	733,966.82

Note: All figures include the GST (7%).

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Ontario, Consolidated Hearings Act, 1981.

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INNISFIL LANDFILL CORPORATION INTERVENOR FUNDI
PROGRAM. IN THE MATTER OF AN APPLICATION BY DO

**RESOURCE CENTRE
INST. FOR ENVIRON'L STUDIES
UNIVERSITY OF TORONTO**



